

ISSUE DATE: November 6, 1997

DOCKET NO. P-5041/NA-97-1194

ORDER GRANTING CERTIFICATE OF AUTHORITY AND REQUIRING FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Gregory Scott
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Request for a Certificate of
Authority to Provide Local Niche Services in
the Exchanges Serving the Twin Cities,
Rochester, Winona, and Duluth

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PROCEDURAL HISTORY

On August 4, 1997, Norlight Telecommunications, Inc. (Norlight or the Company) filed its application for authority to provide local niche services in the exchanges serving the Twin Cities, Rochester, Winona, and Duluth, pursuant to Minn. Stat. §237.16. Norlight has also provided proposed tariff pages in which it proposes individually case based (ICB) pricing for its niche services.

On September 19, 1997, the Minnesota Department of Public Service (the Department) filed comments. The Department recommended that the Commission approve Norlight's application for authority. The Department also recommended that the Commission approve the tariff pages as filed and direct the Company to file its contracts with the Department with sufficient cost information to assure that similarly situated customers receive the same price.

The Commission met on October 21, 1997 to consider this matter.

FINDINGS AND CONCLUSIONS

A. Norlight's Proposal

Norlight is a wholly-owned subsidiary of Journal Communications, Inc., a Wisconsin company which has operations in the areas of print communications, broadcasting, and telecommunications. Norlight was certified as a long distance services reseller by the Commission in Docket No. P-5041/NA-94-437. The Company currently provides private line, high-speed data, video, and other specialized non-switched services to its Minnesota customers (business and institutional), as well as switched interexchange services.

Norlight has applied for authority to provide local niche services in any and all locations within

the Metropolitan Twin Cities toll-free calling area and the Rochester, Winona, and Duluth exchanges, pursuant to Minn. Stat. §237.16. Norlight has also provided proposed tariff pages in which it proposes individually case based (ICB) pricing for its niche services.

B. Commission Analysis

Norlight is defined by Minn. Stat. §237.01, subd. 6 as a telecommunications carrier. A telecommunications carrier proposing to offer local service is to receive certification pursuant to Minn. Stat. § 237.16, subd. 1(b), which states in relevant part:

No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

Norlight is applying for a certificate to provide local niche service. Minn. Rule 7812.0100, subp. 31 defines Local Niche Service as:

...point-to-point connections between end-user locations within a service area and any telecommunications services under the Commission's jurisdiction that do not fall within the definition of local service or the definition of interexchange service.

The Commission has reviewed the company's application and supporting documentation, including information requested of Norlight pursuant to Commission's Rules 7812.0500 for Local Niche Service Certification and relevant parts of 7812.0300 and 7812.0350. Based on its review, the Commission concludes that Norlight possesses the technical, managerial and financial resources to provide local niche services in the proposed areas as required under Minn. Stat. § 237.16, subd. 1(b). No party has challenged Norlight's technical, managerial or financial ability to provide such services.

In addition, the Commission finds that Norlight has provided notice of its application to all affected local telephone companies including telephone companies with less than 50,000 customers, as required of companies proposing to offer local niche services. No parties have objected to the company's proposal.

Finally, under Minn. Stat. § 237.16, subd. 1(b), the terms and conditions under which an applicant may be certified to provide telephone service must be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with Commission rules, and the Commission's rules.

The Commission has found that the best way to evaluate these issues as they relate to Norlight is through analysis of Norlight's tariffs. Upon its review, the Commission finds that the Company's proposed tariffs are appropriate in general and will approve them. To guard against the Company discriminating in its individually case based (ICB) pricing, however, the Commission will order the Norlight to file its contracts with the Department with sufficient cost information to assure that similarly situated customers receive the same price.

C. Commission Action

Based on the foregoing analysis, the Commission will grant Norlight a certificate of authority as specified in Ordering Paragraph 1. Norlight's authority will, of course, be subject to applicable Minnesota statutes and rules, including Minn. Rules, Parts 7812.0050 to 7812.2300 and any subsequent rules being developed in Docket No. P-999/R-97-608 and P-999/R-97-609.

One of the applicable statutes, Minn. Stat. § 237.16, subd. 3 requires that every company authorized to provide local telephone service must file a territorial map. The Company has not done so to date. Accordingly, its certificate will be conditioned upon compliance with that statute. See Ordering Paragraph 1.

ORDER

1. Norlight Communications, Inc. (Norlight or the Company) is hereby granted a certificate to construct, obtain, operate, and maintain non-switched, local access facilities to provide local telephone service to any business class user within (1) the Metropolitan Twin Cities toll free calling area, (2) the Rochester, Minnesota exchange, (3) the Winona, Minnesota exchange, and (4) the Duluth, Minnesota exchange pursuant to Minn. Stat. § 237.16 and Minn. Rule 7812.0500, conditional upon the submission and maintenance of maps with the Department that distinguish clearly between operational areas and nonoperational areas.
2. Norlight's proposed tariff providing for individually case based (ICB) pricing is approved.

3. Within 10 days of their execution, Norlight shall file its contracts with the Department with sufficient cost information to assure that similarly situated customers receive the same price.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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